

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday, May 3, 2004

Division Two

**A102371 -- In re J.D., a Person Coming Under the Juvenile Court Law.  
Contra Costa County Social Services Agency v. Andre D.**

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J.,  
Ruvolo, J. (Not for Publication.)

Tuesday, May 04, 2004

Division Four

**A104330 -- In re David L., a Person Coming Under the Juvenile Court Law. The People v. David L.**

The dispositional order is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A103554 -- Bernard E. Moore, as Trustee, etc. v. James C. Cassil et al.**

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Wednesday, May 5, 2004

Division Two

**A103470 -- Michael C. Pantazis v. Andrew E. Turnauer, Jr.**

The judgment is affirmed. Turnauer is awarded costs. Lambden, J. We  
Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A102242 -- The People v. Patrick James Johnson.**

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J.  
(Not for Publication.)

Thursday, May 6, 2004

Division One

**A103905 -- The People v. Oliver Tadic.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A098900 -- Shannon L. Abraham v. Pacific Union Real Estate Group, LTD. et al.**

The judgment is reversed. Costs awarded to appellant. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Four

**A103734 -- Ch  E. Presant v. California Unemployment Insurance Appeals Board; Nady Systems, Inc., R.P.I.**

The order granting the petition for writ of administrative mandate is affirmed. The request for sanctions is denied. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Friday, May 07, 2004

Division Two

**A103960 -- In re Terry J., a Person Coming Under the Juvenile Court Law. The People v. Terry J.**

The juvenile court is directed to correct the minute order of August 27, 2003, to conform with its oral pronouncement of probation conditions, by deleting the order for a warrantless search condition. The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A106228 -- Kathie Turgeon, et al. v. Steve Hctor, et al.**

By the Court: Appellant having filed a request for dismissal in this court, the appeal is dismissed. The remittitur shall issue forthwith. Kline, P.J.

**A102148 -- Howard Zack, et al. v. Marin Emergency Radio Authority.**

By the Court: The petition for rehearing is denied. Kline, P.J.

Division Three

**A103613 -- The People v. Oscar Martin Beltran.**

Judgment affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Division Five

**A104818 -- In re Freeman C., a Person Coming Under the Juvenile Court Law. The People v. Freeman C.**

The orders of the juvenile court are affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

**A105647 -- Charmaine M. v. Superior Court of the County of Alameda; Alameda County Social Service Agency, R.P.I.**

The petition is denied. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Monday, May 10, 2004

Division One

**A102305 -- The People v. Christopher Eugene Dixon.**

The matter is remanded to the trial court with directions to correct the abstract of judgment to reflect enhancements of one year for each section 667.5, subdivision (b) prior prison term, and to forward a copy of the amended abstract to the Department of Corrections. In all other respects, the judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A104283 -- The People v. Ramon Villegas-Garcia.**

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A101773 -- In re G.G., a Person Coming Under the Juvenile Court Law. The People v. G.G.**

The orders are affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Five

**A104211 -- The People v. David Garland Anderson.**

Our independent review of the record reveals no arguable issues. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

**A104277 -- The People v. Gustavo Pineda Garcia.**

The judgment is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

Monday, May 10, 2004 (continued)

**A101754 -- K.M. v. E.G.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J.  
(Certified for Publication.)

**A099808 -- The People v. Tanielu Nuualofa.**

The judgment is reversed. Simons, J. We Concur: Jones, P.J., Gemello, J.  
(Not for Publication.)

Tuesday, May 11, 2004

Division One

**A101034 -- The People v. Darrell Calhoun.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Certified for Publication.)

**A105238 -- People of the State of California v. Alfredo Carretero, Jr.**

Defendant was represented by competent counsel at all stages of the proceedings in both cases. He stipulated to the guilty plea in case No. CR032562 and the court properly found a basis for his no contest plea in case No. CR032254. Substantial evidence supported the court's revocation of probation in case No. CR032562. The court imposed its sentence in both cases after due consideration of aggravating and mitigating circumstances. It awarded appropriate presentence credits and imposed proper fines in both cases. There were no sentencing errors. The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A097977/A100417 -- John Nady v. Alan Wofsy.**

The judgment and order appealed from are affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

**A105659 -- Angelo R. v. The Superior Court of Alameda County; Alameda County Social Services Agency, R.P.I.**

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The section 366.26 hearing is set for June 1, 2004. Therefore, our decision is final in this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)



MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Tuesday, May 11, 2004

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Swager, J., Margulies, J., and F. Abad, Deputy Clerk.

A101239     Joan R. Palmer,  
                 v.  
                 Jerry Engelke, et al.  
Cause called and argued by Jonathan Roger, counsel for appellant, and Bob Haroche, counsel for respondents. Cause ordered submitted.

A104045     Susann Jarvis, et al.,  
                 v.  
                 Rexall Sundown, Inc., et al.  
Cause called and argued by Robert Phillips, counsel for appellants, and Jacquetta Bardaros, counsel for respondents. Cause ordered submitted.

At this point in the proceedings, Justice Swager left the bench and Justice Stein joined the bench.

A103061     Certain London Market Insurance Companies, et al.,  
                 v.  
                 Safety National Casualty Corporation.  
Cause called and argued by Andrew Epting, counsel for appellant, and Paul Killion, counsel for respondents. Cause ordered submitted.

At this point in the proceedings, Justice Marchiano left the bench and Justice Swager joined the bench. Justice Stein presided for the remainder of the calendar.

A102062 James Clemons,  
v.  
California Engineering Contractors, Inc., et al.  
Cause called and argued by John Anton, counsel for appellant, and Michael Johnson, counsel for respondent California Engineering, Inc., and Gary Watt, counsel for respondent Department of Transportation. Cause ordered submitted.

A103815 Luis Mauricio Mendoza, et al.,  
v.  
Santiago Robleto, et al.  
Cause called and argued by Scott Christensen, counsel for appellants via teleconferencing, and counsel for respondents did not appear. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Tuesday, May 11, 2004

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Swager, J., and B. Robbins, Deputy Clerk.

- A103132     The People,  
              v.  
              Paul Boyd Prince.  
Cause called and argued by John A. Halley, counsel for appellant, and Ross Moody, counsel for respondent. Cause ordered submitted.
- A099709     The People,  
              v.  
              Richard Marcum Quilopras.  
Cause called and argued by Stephen B. Bedrick, counsel for appellant, and Jeremy Friedlander, counsel for respondent. Cause ordered submitted.
- A101246     Rose Bell, et al.,  
              v.  
              Farmers Insurance Exchange.  
Cause called and argued by Wendy Lascher, counsel for appellant, and Michael Rubin, counsel for respondent. Cause ordered submitted.
- A103685     Jeffrey Garrett Fredenburg,  
              v.  
              City of Fremont, et al.  
Cause called and argued by Panos Lagos, counsel for appellant, and Peter P. Edrington, counsel for respondent. Cause ordered submitted.

A103835      Physicians Committee for Responsible Medicine,  
                         v.  
                         Tyson Foods, Inc.  
Cause called and argued by Daniel Kinburn, counsel for appellant, and  
James Harris, counsel for respondent. Cause ordered submitted.

Court adjourned.  
No cases were heard on Monday, May 10, 2004.

Tuesday, May 11, 2004 (continued)

Division Two

**A098565 -- The People v. Robert William Moreda.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Certified for Partial Publication.)

**A102949 -- In re Christopher W., a Person Coming Under the Juvenile Court Law. The People v. Christopher W.**

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A099536, A099647 -- Charlene Vine v. Bear Valley Ski Company.**

The judgment is reversed. Bear Valley shall recover its costs on appeal. Parrilli, J. I Concur: Corrigan, Acting P.J. (See concurring and dissenting opinion by Pollak, J.) (Certified for Publication.)

Division Four

**A102485 -- Steve Castellucci et al. v. Saks Fifth Avenue, Inc.**

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A102929 -- John J. Davis, Jr., Individually and as Trustee, etc. v. Oppenheimer & Co. et al.**

The order denying the motion to compel arbitration and to stay trial court proceedings is reversed. The case is remanded with directions to enter an order granting the motion. The parties shall bear their own costs incurred on appeal. Sepulveda, J. We Concur: Reardon, Acting P.J., Kline, P.J. (Not for Publication.)

Tuesday, May 11, 2004 (continued)

**A102011 -- John H. Rohan v. V. Craig Bull.**

The order is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J.  
(Not for Publication.)

Wednesday, May 12, 2004

Division One

**A104086 -- In re Demetrius S., a Person Coming Under the Juvenile Court Law. The People v. Demetrius s.**

The order is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A103022 -- In re Isayah C., a Person Coming Under the Juvenile Court Law. Marin County Department of Health and Human Services v. Charles C.**

We have, of necessity, reviewed the trial court's decision based on the facts and record as they stood at the time of the dispositional hearing, which occurred about a year ago. (See generally *In re Zeth S.* (2003) 31 Cal.4th 396, 413-414 [normal rules precluding consideration of new evidence on appeal apply equally in juvenile dependency cases].) Yet "we cannot simply unwind a juvenile case and presume that circumstances cannot have changed in the interim. They always do." (*In re S. D.*, *supra*, 99 Cal.App.4th at p. 1083.) Accordingly, although we reverse the trial court's dispositional order, this does not necessarily mean that the trial court must now permit appellant to take custody of Isayah or to place him with his relatives in Redding. Rather, because we lack information as to any court orders of factual developments that may have intervened since the entry of the dispositional order on May 30, 2003, and cannot speculate as to their possible effect on the current situation of Isayah and his family members, we leave it to the sound discretion of the trial court to determine what procedural steps, and what result, are appropriate at this juncture in light of our reversal, the grounds on which it was based, and the current state of affairs is Isayah's family. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Certified for Publication.)

Wednesday, May 12, 2004 (continued)

**A102148 -- Howard Zack et al. v. Marin Emergency Radio Authority;  
Town of Tiburon, R.P.I.**

The Court: Order Modifying Opinion and Certifying Opinion for Partial Publication. It is ordered that the unpublished opinion filed herein on April 14, 2004, be modified as follows: (See order.) There is no change in the judgment. The opinion in the above-entitled matter filed on April 14, 2004, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be certified for partial publication in the Official Reports, with the exception of parts II and III, it is so ordered. Kline, P.J. (Certified for Partial Publication.)

Division Three

**A101348 -- The People v. Norma Lee Gipson.**

The judgment is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

Division Four

**A105721 -- Erica B. v. The Superior Court of Contra Costa County;  
Department of Social Services of Contra Costa County; R.P.I.**

The petition is denied on the merits. (Cal. Rules of Court, rule 39.(o).) This decision is final immediately. (*Id.*, rule 24(b).) Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)



Wednesday, May 12, 2004 (continued)

Division Five

**A102152 -- Eveilia Plancarte v. Guardsmark, LLC.**

By the Court: Order Modifying Opinion and Certifying Opinion for Partial Publication. The opinion in the above-entitled matter filed on April 14, 2004, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be partially published in the Official Reports, and it is so ordered. Pursuant to California Rules of Court, rules 976(b) and 976.1, the DISCUSSION sections entitled “Standard of Review,” “Respondeat Superior Doctrine and Intentional Torts,” “Respondeat Superior Doctrine and Negligence,” and “Negligent Hiring and Supervision,” are not certified for publication. It is further ordered that the opinion be modified as follows: (See order.) This modification does not effect a change in the judgment. Jones, P.J. (Certified for Partial Publication.)

Thursday, May 13, 2004

Division One

**A104168 -- Wedbush Morgan Securities, Inc. v. Diep Q. LE et al.**

The judgment is affirmed. Respondents shall recover their costs on appeal from Wedbush. Respondent's request for sanctions is denied. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A104580 -- The People v. Jose Juan Lopez.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

**A101702 -- In re Alexis M., a Person Coming Under the Juvenile Court Law. Humboldt County Department of Social Services v. Robert P., et al.**

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Four

**A104733 -- In re Zachary D., a Person Coming Under the Juvenile Court Law. The People v. Zachary D.**

The dispositional order is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Division Five

**A104013 -- The People v. Evert John Vangerrevink, Jr.**

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Thursday, May 13, 2004 (continued)

**A098094 -- The People v. Franklin Keith Sowl.**

On the convictions for counts 1 through 5, the judgment is reversed. In all other respects, the judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Friday, May 14, 2004

Division One

**A103998 -- In re Sidney H., a Person Coming Under the Juvenile Court Law. The People v. Sidney H.**

We have thoroughly reviewed the record and find no arguable issues. There are no issues requiring further briefing. The order of commitment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A103427 -- Shawn Mooney v. Norlene G. Mooney, as Trustee, etc.**

The judgment is reversed and the matter is remanded to the trial court to determine the amount of attorney fees and expenses to which appellant is contractually entitled, and to modify the judgment accordingly. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A104446 -- In re George P., a Person Coming Under the Juvenile Court Law. The People v. George P.**

The order adjudicating appellant a continued ward of the court and committing him to the care of the probation department for out-of-home placement is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Three

**A103940 -- Conrad Lee Klein, et al., as Trustees, etc. v. Alexander Reynolds Hughes, a Minor, etc.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

**A103152 -- Christine Peterson v. Whole Food Markets, Inc.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Friday, May 14, 2004

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness, P.J., Parrilli, J., Pollak, J. and I. Calanoc, Deputy Clerk.

A099199 Adam Peart, a Minor, etc., et al.,

v.

Paul E. Ferro, et al.

Cause called and argued by Bernard Bergesen, counsel for appellants and Merrill Emerick, counsel for respondents. Cause ordered submitted.

A101503 Eagle Lane Road Maintenance Association,

v.

Dan Reinmuth, et al.

Corrigan, J. approached the bench. The panel for this case is now comprised of McGuiness, P.J., Corrigan, J., and Pollak, J. Cause called and argued by David Lanferman, counsel for appellant, and Steven Walker, counsel for respondents. Cause ordered submitted.

A105649 Billy W. v. Social Services Agency, et al.

A105648 Glenda G. v. San Francisco Department of Human Services.

The panel for these consolidated cases is comprised of Parrilli, J., Pollak, J. and McGuiness, P.J. Petitioner in A105649 was represented by Mark Murray; Petitioner in A105648 was represented by Patricia Fitzsimmons. Cause ordered submitted. McGuiness, P.J. left the bench after this case was heard.

A101103 The People,

v.

Julius Lee Jackson.

The panel for this case is comprised of Corrigan, J., Parrilli, J. and Pollak, J. Cause called and argued by John Halley, counsel for appellant, and Kelly Croxton, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED

Friday, May 14, 2004 (continued)

Division Four

**A102518 -- City of Morgan Hill et al. v. Bay Area Air Quality Management District et al.; Calpine Incorporated, R.P.I.**

The dismissal order is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Certified for Publication.)

Division Five

**A099849 -- The People v. Raymond Moore.**

The judgment of conviction is affirmed, with the exception of three of the convictions for possession of a blank check in violation of Penal Code section 475, subdivision (b), (count 5 of the Colma case, and counts 3 and 4 of the Millbrae case), which must be vacated when the judgment of conviction is modified on remand. The matter is remanded to the trial court for resentencing, in accordance with the views expressed in this opinion. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Monday, May 17, 2004

Division One

**A103426 -- In re the Marriage of Karen and Stephen Coldwell.**

The order of the superior court is reversed. The matter is remanded to the superior court for proceedings consistent with the opinion. Costs are awarded to appellant. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Four

**A104518 -- The People v. Peter R. Cole.**

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A102250 -- The People v. Edward Ronell Steward.**

The judgment of conviction and order of the court are affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Monday, May 17, 2004

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco, California. Present: Kay, P.J., Sepulveda, J. and Rivera, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Aron Ching, Bailiff.

A100356     People  
              v.  
              Nidal Massoud  
Cause called. Ernest Tooby argued for appellant Massoud. Michele Swanson argued for respondent. Cause submitted.

At this point the court reconstituted itself to include: Kay, P.J., Reardon, J. and Sepulveda, J.

A13963     Robert Frager  
              v.  
              Brian Silk  
Cause called. George P. Eshoo argued for appellant Silk. Desmond Tuck argued for respondent. Cause submitted.

At this point the court reconstituted itself to include: Kay, P.J., Reardon, J. and Rivera, J.

A097686     People  
              v.  
              Derek Lovings  
Cause called. J. Courtney Shevelson argued for appellant Lovings. John Vance argued for respondent. Cause submitted.

A101630     Marta Priebe  
              v.  
              Russell Nelson  
Cause called. Benjamin J. Riley argued for appellant/cross-respondent Nelson. W. Timothy Needham argued for respondent/cross-appellant. Cause submitted.

At this point the court reconstituted itself to include: Reardon, Acting P.J., Sepulveda, J. and Rivera, J.



A101905

People

v.

Charles Lloyd Sanders

Cause called. Steven S. Lubliner argued for appellant Sanders. Morris Lenk argued for respondent. Cause submitted.

The court recessed at 10:49 a.m.

Tuesday, May 18, 2004

Division One

**A101457 -- The People v. Everett Gullett.**

By the Court: The petition for rehearing is denied. Marchiano, P.J.

**A103655 -- South Tahoe Public Utility District v. Mohammad Ahmad et al.**

The judgment is affirmed. Respondent is awarded costs of appeal. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A101821 -- Ann Maria Zocca v. Giovanni Zocca.**

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

Division Two

**A102292 -- Golden Eagle Insurance Corp. v. LaJolla Pacific Insurance Agency, Inc.**

The judgment is affirmed. Golden Eagle is awarded costs. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A101978 -- The People v. Varian Dontez White.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A104112 -- The People v. Paul Wesley Deem.**

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Tuesday, May 18, 2004 (continued)

**A105648 -- Glenda G. v. The Superior Court of San Francisco County;  
San Francisco Department of Human Services et al., R.P.I.**

**A105649 -- Billy W. v. The Superior Court of San Francisco County;  
San Francisco Department of Human Services et al., R.P.I.**

The petitions of Glenda and Billy are denied on the merits. (§ 366.26, subd. (1)(1)(C); Cal. Rules of Court, rule 39.1 B(o); *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) Our decision is final immediately. (Cal. Rules of Court, rule 24(b)(3).) The request for a stay of the section 366.26 hearing to be held on June 9, 2004, is denied as moot. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.) B

Division Four

**A103265 -- In re the Marriage of Frances and Alan Griffin.**

The order is affirmed. Ruvolo, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR

Tuesday, May 18, 2004

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco, California. Present: Kay, P.J., Reardon, J. and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Aron Ching, Bailiff.

A103903      People  
                 v.  
                 Vernon Miles Laws  
Cause called. Barry M. Karl argued for appellant Laws. Michael Banister argued for respondent. Cause submitted.

A099189      Leona Williams  
                 v.  
                 Priscilla Hunter et al.  
Cause called. Edward Swanson argued for appellants Hunter et al. Michael Robinson teleargued for respondent. Cause submitted.

A101370      People  
                 v.  
                 Stephen Wayne Tessler  
Cause called. Donald Horgan argued for appellant Tessler. Jeffrey Laurence argued for respondent. Cause submitted.

At this point the court reconstituted itself to include: Kay, P.J., Reardon, J. and Sepulveda, J.

A103275      Lillian Troung et al.  
                 v.  
                 Health Net of California  
Cause called. Raul Martinez argued for appellant Health. Amy O'Keefe argued for respondents. Cause submitted.

The court adjourned at 10:51 a.m.

Wednesday, May 19, 2004

Division Two

**A096546 -- The People v. Ernesto Cortez Figueroa.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J.  
(Not for Publication.)

**A102762 -- Therese Miller et al. v. Janice Afruma et al.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J.  
(Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Wednesday, May 19, 2004

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Ruvolo, J., and S. Graham, Deputy Clerk.

- A095846 Yvette Munoz et al.,  
v.  
City of Union City et al.  
Cause called and argued by George Murphy, counsel for appellant, and Daniel Smith, counsel for respondent. Cause ordered submitted.
- A101673 J. Nicholas McIntosh,  
v.  
Robert W. Mills et al.  
Cause called and argued by Bryce Anderson, counsel for appellant, and Jonathan Bass, counsel for respondent. Cause ordered submitted.
- A100309 Mario R. Juarez,  
v.  
Boy Scouts of America, Inc., et al.  
Cause called and argued by Charles Bonner, counsel for appellant, and Michael Kinane, counsel for respondent. Cause ordered submitted.
- A101101/ Amdahl Corporation,  
A101203/ v.  
A102558 California Franchise Board.  
Cause called and argued by Kristian Whitten, counsel for appellant, and David Larson, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Haerle, J. Lambden, J., and I. Santos, Deputy Clerk.

- A103320     In re George Scott on Habeas Corpus.  
Cause called and argued by Michael Satris, counsel for appellant, and Brian G. Walsh, counsel for respondent. Cause ordered submitted.
- A100425     The People,  
v.  
John David Aragon.  
Cause called and argued by Brian Hong, counsel for appellant, Christopher Wei, counsel for respondent. Cause ordered submitted.
- A101410     Orville H. Griffin et al.,  
v.  
D/C Distribution Corporation.  
Cause called and argued by Bryce Anderson, counsel for appellant, and J. Daniel Sharp, counsel for respondent. Cause ordered submitted.
- A103942     Thomas Corbett,  
v.  
Hayward Dodge, Inc.  
Cause called and argued by Laurence Jackson, counsel for appellant, and Sharon Kinsey (via teleconference), counsel for respondent. Cause ordered submitted.

**COURT ADJOURNED.**

Wednesday, May 19, 2004 (continued)

Division Three

**A102582 -- In re Francisco B., a Person Coming Under the Juvenile Court Law. Contra Costa Bureau of Children and Family Services v. A.W.**

The court's orders of March 6, 2003, are affirmed. McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

**A102632 -- In re Brianna Z., a Person Coming Under the Juvenile Court Law. Contra Costa Bureau of Children and Family Services v. A.W.**

The May 6, 2003, order is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)



Thursday, May 20, 2004

Division Two

**A095433 -- The People v. James Ary, Jr.**

We remand the case to the trial court with instructions to determine within sixty days, in a manner not inconsistent with this opinion, whether a retrospective competency hearing can be held. In the event such a hearing is held and defendant is found to have been competent to stand trial, we will consider the remaining issues raised in this appeal. In the event defendant is found to have been incompetent to stand trial, the judgment shall be reversed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Certified for Publication.)

**A104169 -- Nathan Burgess v. San Francisco Department of Parking & Transportation et al.**

The judgment is affirmed. Respondents are awarded costs. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Four

**A103172 -- The People v. Jaime Ramon Buitrago.**

Accordingly, we order the judgment modified to delete the order requiring restitution in the amount of \$12,000 payable to the San Mateo County Narcotics Task Force. A corrected abstract of judgment reflecting this modification shall be forwarded to the Department of Corrections. In all other respects, the judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

**A103210 -- The People v. Troy L. Carpenter.**

We find no abuse of discretion in the trial court's denial of probation or in its imposition of the aggravated term. The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Thursday, May 20, 2004 (continued)

**A102621 -- The People v. Mark Lawrence Wells.**

The conviction of petty theft with a prior is reversed. In all other respects, the judgment is affirmed. The trial court is directed to issue an amended abstract of judgment deleting the conviction of petty with a prior and to forward a certified copy to the California Department of Corrections. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

**A100641, A101205, A102001 -- Harda Wong v. Thrifty Corporation et al.**

The amended judgment on appeal in A100641 is affirmed in its entirety. The order for supplemental fees on appeal in A101205 is reversed only insofar as it denied recovery of interest on attorney fees and costs; in all other respects it is affirmed. Finally, we reverse the order directing entry of satisfaction of judgment, on appeal in A102001. The parties will bear their own costs on appeal. We remand the matter to the trial court for computation of interest on fees and costs. We remind the parties that this opinion is law of the case as to when interest begins to accrue, i.e., on entry of the judgment or order setting fees and costs. Further, we observe that the rancor and nastiness evident in nearly every piece of correspondence and every pleading in this case is unprofessional and should cease. It appears that the one thing the parties have in common is the tone adopted in this litigation, which has deterred, not advanced, resolution of this case. Finally, we note that Wong's attorney has already been very generously compensated for his efforts. If Wong attempts to mount another request for attorney fees and costs, any such request should speak only to fees *reasonably* necessary and only to fees in furtherance of the two issues vindicated on appeal. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

DIVISION FIVE

Thursday, May 20, 2004

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J.; Gemello, J.; and Richard H. Sandvik, Deputy Clerk.

A09945    The People

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v.

Victor Renard Cyrus, JR.

Cause called and argued by Eric S. Multhaup, counsel for appellant, and by Catherine A. Rivlin, counsel for respondent. Cause ordered submitted.

A10183    The Ratcliff Architects

3

v.

Dillingham Construction N.A.

Cause called and argued by John M. Higginbotham, counsel for appellant, counsel for respondent did not appear. Cause ordered submitted.

A10339    Joseph J. Schwede

4

v.

Judy Lee Barrett

Cause called and argued by Michael W. Spalding, counsel for appellant, and by David Kindopp, via teleconference call, counsel for respondent. Cause ordered submitted.

A10284    Renee Milligan

3

v.

The Golden Gate Bridge, et al.

Cause called and argued by John H. Scott, counsel for appellant, and by Kimon Manolius, counsel for respondent. Cause ordered submitted.

A10330    Daniel Bruffett, a Minor, etc., et al.

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v.

Chevron U.S.A. Inc. et al.

Cause called and argued by Michael J. Trezza, counsel for appellant, and by Richard C. Coffin, counsel for respondent. Cause ordered submitted.

Court adjourned at 11:14 a.m.

Friday, May 21, 2004

Division One

**A103061 -- London Market Insurers v. Safety National Casualty Corporation.**

The order appealed from is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Friday, May 21, 2004

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: Corrigan, J., Parrilli J., Pollak J., and C. Turner, Deputy Clerk.

A101167 Anne Elizabeth Fontaine,

v.

Douglas H. Bosco,

Cause called and argued by Duncan Footman via teleconference counsel for appellant, and Paul E. Vallone counsel for respondent. via teleconference.

Cause ordered submitted.

court adjourned

Friday, May 21, 2004 (continued)

Division Four

**A105704 -- The People v. Steven Harris Billot.**

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J.  
(Not for Publication.)

**A103903 -- The People v. Vernon Miles Laws.**

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J.  
(Not for Publication.)

**A106046 -- Juliette S. v. The Superior Court of Alameda County;  
Alameda County Social Services Agency, R.P.I.**

The petition for extraordinary writ is denied on the merits. (§ 366.26, subd. (1)(1)(C); Cal. Rules of Court, rule 39.1B(o); *In re Julie S.* (1996) 48 Cal.App.4th 988 990-991.) Our decision is final immediately. (Cal. Rules of Court, rule 24(b)(3).) The request for a stay of the May 27, 2004, and June 23, 2004, hearing is denied. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A099858, A099863, A099864, A100892, A100895, A100896, A100897 --  
PG&E Corporation v. Public Utilities Commission; Office of Ratepayer  
Advocates et al., R.P.I. [And five other cases.]**

The PUC's decision denying the holding companies' motions to dismiss (Cal.P.U.C. Dec. Nos. 02-01-037 and 02-07-044) are affirmed. The PUC's decisions on the interim interpretation of the first priority condition (Cal.P.U.C. Dec. Nos. 02-01-039 and 02-07-043) are affirmed without prejudice to the right of any party to raise the issue anew after there has been a determination whether one or more of the holding companies have violated the first priority condition and, if so, what remedies are appropriate. Jones, P.J. We Concur: Stevens, J., Simons, J. (Certified for Publication.)

Monday, May 24, 2004

Division One

**A103132 -- The People v. Paul Prince.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A102070 -- Colin Scott v. Emily Scott.**

By the Court: The petition for rehearing is denied. Swager, Acting P.J.

Division Two

**A099416 -- Jane Chamberlin v. San Francisco Unified School District et al.**

The court did not err in granting the demurrer without leave to amend. The judgment is affirmed. The parties shall each bear their own costs on appeal. Kline, P.J. We Concur: Haerle, J., Ruvoilo, J. (Not for Publication.)

**A100215 & A100546 -- The People v. Juan Valentine Reyes et al.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A102283 -- The People v. Steven Wayne Stras.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)



Monday, May 24, 2004 (continued)

Division Four

**A102608 -- The People v. Richard Anthony Cota.**

We affirm the order revoking probation but direct that appellant's sentence be reduced to nine years. A certified copy of a corrected abstract of judgment shall be sent to the Department of Corrections. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A102603 -- Cynthia M. Lopez v. Charles Schwab & Co., Inc.**

By the Court: The written opinion which was filed on April 29, 2004, has now been certified for publication pursuant to rule 976(b) of the California Rules of Court, and it is ordered published in the official reports. Kay, P.J.

**A103963 -- Brian Silk v. Robert Frager, as Trustee, etc.**

The default judgment and the order denying relief from default are reversed. On remand, the trial court is required to direct Attorney Eshoo to pay reasonable compensatory legal fees and costs to Frager or his attorney as required by the mandatory provisions of section 473, subdivision (b), and to consider in its discretion whether penalties or other relief authorized by that section should be imposed. Costs on appeal are awarded to Silk. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A103275 -- Lillian Truong et al. v. Health Net Life Insurance Company.**

The trial court's order of June 16, 2003 denying Health Net's motion to compel arbitration and to stay the action until completion of arbitration is reversed. The matter is remanded with directions that the trial court grant the motion, with the exception of the third cause of action for injunctive relief, and to stay further proceedings against Health Net until completion of arbitration, at which time the third cause of action shall be adjudicated by the trial court. The trial court shall exercise its discretion as to whether to stay proceedings against the other defendant until the completion of arbitration between plaintiffs and defendant Health Net. The parties shall bear their own costs on appeal. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Monday, May 24, 2004 (continued)

Division Five

**A102135/A102804 -- Elizabeth A. LaMacchia et al. v. Residential Rent Stabilization and Arbitration Board of the City and County of San Francisco et al.**

The judgment denying the petition for a writ of administrative mandamus and order awarding attorney fees and costs are affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Tuesday, May 25, 2004

Division One

**A101532 -- The People v. Eddie J. Adams.**

The judgment and sentence are affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

**A101239 -- Joan R. Palmer et al. v. Jim Murphy et al.**

We affirm the order granting summary adjudication. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A104045 -- Jamie Pesek et al. v. Royal Numico N.V. et al.**

The thoughtful discovery referee exercised his discretion over the sizeable record submitted in support of plaintiffs' motion to compel. The motion addressed a number of abuses of the discovery process in support of the request for sanctions. Defendants have failed to show an abuse of that discretion, and we affirm the order. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A099709 -- The People v. Richard Quilopras.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A101086 -- The People v. Don Everett Allen.**

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Tuesday, May 25, 2004 (continued)

Division Three

**A103937 -- The People v. Francisco Aviles.**

We find no issue deserving of additional briefing. The judgment is hereby affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A101103 -- The People v. Julius Lee Jackson.**

The judgment is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

**A103919 -- The People v. Paul Mifsud, Jr.**

The order revoking defendant's probation is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

**A097686 -- The People v. Derick E. Lovings.**

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Certified for Publication.)

**A100356 -- The People v. Nidal Massoud.**

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A103129 -- Linda Pettie et al. v. City and County of San Francisco, et al.**

The Court: Order Modifying Opinion and Denying Rehearing. It is ordered that the opinion filed herein on April 30, 2004, be modified as follows: (See order.) There is no change in the judgment. Respondents' petitions for rehearing are denied. Kay, P.J. (Certified for Publication.)

Tuesday, May 25, 2004 (continued)

Division Five

**A101674 -- Mark Choi, D.D.S. v. Edward L. Harvey.**

The judgment is affirmed. Each party is to bear his own costs on appeal. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A103261 -- In re Eric G., a Person Coming Under the Juvenile Court Law. The People v. Eric G.**

The order of the juvenile court is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

**A103822 -- Brigitte Levy v. Albert Sahim.**

The orders are affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Wednesday, May 26, 2004

Division One

**A103158 -- In re Ruben G., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Collette G, et al.**

Accordingly, the appeal from the denial of the petition for modification is dismissed; the order that terminated appellant's parental rights and implemented adoption of the minor as a permanent plan is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

**A105725 -- Christine H. v. The Superior Court of Sonoma County; Sonoma County Human Services Department, R.P.I.**

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024. The section 366.26 hearing is set for June 9, 2004. Therefore, our decision is final in this court immediately. (Rule 24(b)(3).) Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

**A100614 -- The People v. Derrick Ezre Holloway.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A101412 -- Mark D. Pineda v. Mary Ann Skidmore et al., State Compensation Insurance Fund.**

The judgment is reversed insofar as it orders SCIF to pay a portion of Pineda's attorney's fees. In all other respects, the judgment is affirmed. Each party is to bear its own costs on appeal. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Wednesday, May 26, 2004 (continued)

**A101357 -- The People v. Johann Sebastian Schmidt.**

The abstract of judgment in this case is modified in the following respects: (1) The one-year sentence enhancement imposed pursuant to section 12022(b)(1) relates to the murder conviction (count 1) rather than the burglary conviction (count 2); and (2) the parole restitution fine imposed pursuant to section 1202.45 is stricken. In all other respects, the judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A103626 -- The People v. Ron Jeffery Chubb.**

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

**A101503 -- Eagle Lane Road Maintenance Association v. Dan Reinmuth, et al.**

The judgment is affirmed. Respondents are awarded costs on this appeal. Corrigan, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

**A101167 -- Anne Elizabeth Fontaine v. Douglas H. Bosco.**

The judgment is affirmed. Fontaine to bear costs on appeal. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

Wednesday, May 26, 2004 (continued)

**A103771 -- In re Anthony G., a Person Coming Under the Juvenile Court Law. The People v. Anthony G.**

The order is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A097724 -- The People v. Jerry Lee Hill.**

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Certified for Partial Publication.)

**A103953 -- In re Sharee K., a Person Coming Under the Juvenile Court Law. Mendocino County Department of Social Services v. Donna K.**

The order terminating Donna's parental rights is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

**A102763 -- Arnetha Puckett v. Ronald Puckett.**

The order is affirmed. Arnetha shall recover her costs, if any, on appeal. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A099569 -- The People v. Travis Wells.**

By the Court: The petition for rehearing is denied. (Pollak, J. would grant the petition.) McGuiness, P.J.

Division Five

**A102845 -- Interstate Brands Corporation v. Law Offices of Mayor Joseph Alioto and Angela Alioto et al.; Waukeen Q. McCoy.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)



Thursday, May 27, 2004

Division One

**A104012 -- Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Board; Aiyaz Masani et al., R.P.I.**

For the reasons set forth above, we vacate the decision of the Board and affirm and reinstate the decision of the Department. The parties shall bear their own costs of this writ proceeding. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Certified for Publication.)

**A102077 -- The People v. David Allen Smith.**

This matter is remanded to the trial court. The trial court is directed to amend the abstract of judgment to delete the requirement for section 296 sampling and to forward a certified copy of the amended abstract of judgment to the California Department of Corrections. The trial court is also directed to issue an order in the form dictated by section 299, subdivision (a), requiring the destruction of any remaining physical samples taken from defendant and the expungement of all electronic records of those materials. As required in section 299, subdivision (a), the trial court shall send a copy of that order to the Director of the Department of Justice DNA Laboratory. The People are directed to confirm within a reasonable period of time that the Department of Justice has complied with the order as directed in section 299, subdivision (a) and (c). Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A104706 -- The People v. Lonzo E. Harris.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A101839 -- International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada, Local No. 16 v. Charlotte Laughon.**

The judgment is reversed and the case remanded to the superior court for action not inconsistent with this opinion. Costs on appeal are awarded to appellant. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

Thursday, May 27, 2004 (continued)

Division Three

**A101696 & A103298 -- In re Raquel C., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. Don C.**

The orders of the trial court are affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A103774 -- In re James H. et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Children and Family Services Bureau v. Monica D.**

The July 28, 2003 orders of the juvenile court from which this appeal was taken are affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A096633 -- The People v. Asad Muhammad.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A104215 -- The People v. Kevin Slaughter.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

**A105043 -- In re J.V., a Person Coming Under the Juvenile Court Law. Mendocino County Department of Social Services v. Cynthia V.**

The order is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A103382 -- The People v. Rodolfo Rios Saldana.**

The judgment of conviction is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Thursday, May 27, 2004 (continued)

Division Five

**A104067 -- The People v. Lavee Crayon.**

There are no arguable issues. The judgment is affirmed. The court is ordered to correct the abstract of judgment to reflect the 1987 robbery strike prior and forward it to the California Department of Corrections. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

**A102302 -- The People v. Michael Ingram.**

We find no errors or other issues that require further briefing. The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

**A101500 -- Michael H. Clement Corporation v. Joel Keller et al.**

The award of attorney fees in favor of MHCC is affirmed. The parties shall bear their own costs on appeal. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

**A103232 -- The People v. John Slagle.**

The Court: Order Modifying Opinion. On the court's own motion, it is ordered that the opinion filed herein on May 10, 2004, be modified as follows: (See order.) This modification changes the judgment. Jones, P.J. (Not for Publication.)

Friday, May 28, 2004

Division One

**A102062 -- James Clemons v. California Engineering Contractors/Modern Continental Construction, Inc., et al.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

**A103815 -- Luis Mauricio Mendoza et al. v. Santiago Robleto et al.**

Accordingly, the order denying appellants' request for attorney fees is affirmed. Costs on appeal are awarded to respondents. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

**A102401 -- Thomas H. Paine, et al. v. Franchise Tax Board.**

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

Division Two

**A102137 -- Taiho Development Enterprise Company, LTD. v. Edward E. Lee.**

The judgment is affirmed. Lee is awarded costs. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A100958 -- The People v. David Lavell William Hill.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Certified for Partial Publication.)

**A102563 -- Lujza Mehling et al. v. Town of San Anselmo; Stephen J. Atwater, R.P.I.**

The judgment is affirmed. Respondents shall recover their costs on appeal. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Friday, May 28, 2004 (continued)

**A099199 -- Adam Peart, a Minor, et al. v. Paul E. Ferro, et al.**

The judgment is affirmed. Appellants shall pay respondents' costs on this appeal. McGuiness, P.J. I Concur: Parrilli, J. (See concurring opinion by Pollak, J.) (Certified for Publication.)

**A097014 -- The People v. Nickolas Anthony Salcido.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

**A103166 -- Jo DiStefano v. Lam Research Corporation.**

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A104367 -- City of Modesto Redevelopment Agency et al. v. The Superior Court of San Francisco County; The Dow Chemical Company et al., R.P.I.**

Let a writ of mandate issue directing the superior court to vacate and set aside its orders of October 17, 2003, granting the prevailing defendants' motions for summary adjudication on the Polanco Act and negligence per se causes of action, and further directing the superior court to reconsider the motions for summary adjudication in accordance with the views expressed herein. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Certified for Publication.)

Friday, May 28, 2004 (continued)

Division Five

**A102522 -- The People v. Brian Michael Apodaca.**

The judgment is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

**A102593 -- Contempo Marin Homeowners Association v. MHC Financing Limited Partnership; City of San Rafael.**

The December 18, 2001 order granting summary adjudication in favor of the Homeowners Association on the third and seventh causes of action in its complaint is affirmed. The judgment of dismissal against the City of San Rafael is affirmed. Respondents shall recover their costs on appeal. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A102393 -- The People v. David James Rhodes.**

The judgment and sentence are affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)